

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:
THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

**REPLY OF THE COMMONWEALTH OF PUERTO RICO TO RESPONSE FILED BY
UBS TRUST COMPANY TO SIXTIETH OMNIBUS OBJECTION (NON-
SUBSTANTIVE) TO DEFICIENT CLAIMS**

To the Honorable United States District Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the representative of the Commonwealth pursuant to Section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² files this reply (the “Reply”) to the *Response to Sixtieth Omnibus Objection (Non-Substantive) of the Commonwealth of Puerto Rico to Deficient Claims* [ECF No. 8386] (the “Response”), filed by claimant UBS Trust Company of Puerto Rico (the “Claimant”) to the *Sixtieth Omnibus Objection (Non-Substantive) of the Commonwealth of Puerto*

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA” and together with the Commonwealth, COFINA, HTA, and ERS, the “Debtors”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² PROMESA is codified at 48 U.S.C. §§ 2101-2241.

Rico to Deficient Claims [ECF No. 8287] (the “Sixtieth Omnibus Objection”). In support of this Reply, the Commonwealth respectfully represents as follows:

1. On July 26, 2019, the Commonwealth filed the Sixtieth Omnibus Objection seeking to disallow certain proofs of claim that failed to comply with the applicable rules for filing a claim by not providing a basis for asserting a claim against the Commonwealth (collectively, the “Deficient Claims”), each as listed on Exhibit A thereto. As set forth in the Sixtieth Omnibus Objection and supporting exhibits thereto, each of the Deficient Claims asserts liabilities associated with the Commonwealth while failing to provide a basis for asserting these claims against the Commonwealth.

2. Any party who disputed the Sixtieth Omnibus Objection was required to file a response by 4:00 p.m. (Atlantic Standard Time) on August 28, 2019, in accordance with the Court-approved notice attached to the Sixtieth Omnibus Objection as Exhibit C, which was served in English and Spanish on the individual creditors subject to the Sixtieth Omnibus Objection, the U.S. Trustee, and the Master Service List (as defined in the *Order Further Amending Case Management Procedures* [ECF No. 8027]). *See Certificate of Service* [ECF No. 8329].

3. On August 6, 2019, Claimant filed the Response. Therein, Claimant does not dispute that the proof of claim, which was filed on behalf of the Hector L. González Cruz Retirement Plan (the “González Plan”) against the Commonwealth on June, 28, 2018, and logged by Prime Clerk as Proof of Claim No. 65124 (the “Original Claim”), failed to comply with the applicable rules for filing a claim by not providing a basis for asserting a claim against the Commonwealth. Rather, Claimant asserts that the González Plan filed an amended proof of claim against the Commonwealth on August 6, 2019, which was logged by Prime Clerk as Proof of

Claim No. 169959 (the “Amended Claim”), in order “to add the account statement as evidence of the bonds held by Claimant, the issuer of the bond, the CUSIP number, and the face value of the bonds.” Resp. at 3.

4. Because “an amended proof of claim supersedes the original filing and deprives the earlier filing of legal effect,” claimants are not entitled to recovery for the liabilities asserted in the Original Claim. *See, e.g., Matter of Vitro Asset Corporation*, 656 F. App’x. 717, 722 n.1 (5th Cir. 2016); *see also In re Enron Corp.*, No. 01 B 16034, 2005 WL 3874285, at *1 (Bankr. S.D.N.Y. Oct. 5, 2005). However, because the filing of an amended claim does not automatically remove the original claim from the claims registry, failure to disallow the Original Claim leaves the possibility that the claimants could receive an unwarranted double recovery. Moreover, the claimants will not be prejudiced by the disallowance of the Original Claim because the liabilities associated with that claim are asserted by the Amended Claim. Accordingly, the Commonwealth respectfully requests that the Court grant the Sixtieth Omnibus Objection and disallow the Original Claim in its entirety.

Dated: September 4, 2019
San Juan, Puerto Rico

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 4, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to all counsel of record, and all CM/ECF participants in the case.

/s/ Ricardo Burgos Vargas

Hermann D. Bauer